

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARK DAVENPORT,	:
Plaintiff	:
v.	: Case No. 3:09-cv-323-KRG-KAP
GEORGE N. PATRICK, <u>et al.</u> ,	:
Defendants	:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on February 22, 2011, docket no. 28, recommending that defendants' motion to dismiss, docket no. 10, be granted without prejudice to proceeding in state court pursuant to 42 Pa.C.S. § 5103.

The parties were notified pursuant to 28 U.S.C. § 636(b)(1), that they had fourteen days to file written objections to the Report and Recommendation. No one has filed objections and the time to do so has expired.

Upon review of the record of this matter and the Report and Recommendation, and noting the lack of timely objections thereto, the following order is entered:

AND NOW, this 21st day of March, 2010, it is

ORDERED that defendants' motion to dismiss, docket no. 10, is granted and the complaint against defendants is dismissed without prejudice to proceeding in state court pursuant to 42 Pa.C.S. § 5103. The Report and Recommendation is adopted as the opinion of the Court. The Clerk shall mark this matter closed.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

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